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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION  
HONORABLE ANDRE BIROTTE, JR., U.S. DISTRICT JUDGE

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	<b><u>CERTIFIED TRANSCRIPT</u></b>
	)	
vs.	)	
	)	Case No.
ARLAN WESLEY HARRELL,	)	2:17-cr-00404-AB-1
KEITH ALLEN LAWNICZAK,	)	
JOHN RICHARD BRINSON, JR.,	)	
	)	
Defendants.	)	
	)	

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REPORTER'S TRANSCRIPT OF PROCEEDINGS  
MOTION HEARING  
FRIDAY, OCTOBER 11, 2019  
2:18 P.M.  
LOS ANGELES, CALIFORNIA

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1                   **LOS ANGELES, CALIFORNIA; FRIDAY, OCTOBER 11, 2019**

2                                   **2:18 P.M.**

3                                   - - -

02:18PM 5                   THE COURTROOM DEPUTY:   Calling Criminal Case 17-404,  
6                   *United States of America vs. Arlan Wesley Harrell, John Richard*  
7                   *Brinson, Jr., and Keith Allen Lawniczak.*

8                   Counsel, please come forward and state your  
9                   appearances.

02:19PM 10                  MS. MYERS:   Good afternoon, Your Honor.   Devon Myers  
11                  on behalf of the United States.

12                  MS. KUPERSMITH:   Along with Lauren Kupersmith on  
13                  behalf of the United States.

14                  MR. CASTILLO:   Good afternoon as well, Your Honor.  
02:19PM 15                Pedro Castillo on behalf of Arlan Wesley Harrell, who's  
16                present -- he's not present.   Soon he will be.   He is in  
17                custody, Your Honor.

18                  MR. NISHI:   Thomas Nishi on behalf of Keith  
19                Lawniczak, who is not present.   I assume he will be brought up  
02:19PM 20                shortly.

21                  THE COURT:   All right.   I need to have counsel  
22                approach at sidebar.

23                               **(Sidebar discussion:)**

24                  THE COURT:   All right.   So I'm probably going to get  
02:19PM 25                everyone here upset.   Here's the situation.   Lawniczak was not

1 brought here today. We have Nicolaysen on the phone.

2 I'm going to be candid with you all. I do not feel  
3 comfortable going forward with this proceeding now with bits  
4 and pieces. I just don't feel comfortable with it. I

02:20PM 5 recognize that we have victims here. It's not my intention to  
6 cause anyone harm, but, because of the fires, I guess they  
7 can't get them here. The earliest they can get them here is  
8 maybe 4:00. And you got this situation with Nicolaysen, with  
9 the fires.

02:20PM 10 And so my proposal is to continue the matter. I'll  
11 allow the parties to state their objections. Apologies  
12 profusely to the victims that are here. It's just -- I have  
13 some real heartburn about going forward in a piecemeal  
14 manner -- just some irony, particularly the fact there's a  
02:20PM 15 motion for severance -- of doing the hearing without --  
16 Lawniczak not being here. I don't feel comfortable.

17 So I want to let you all know that, again, you all  
18 need to do what you need to do for the record, and I'm not  
19 going to take offense. But I want them -- just want to let you  
02:21PM 20 know where I'm coming from.

21 I just worry about in a case like this, at least  
22 from my -- I'm looking from my vantage, I want to avoid as many  
23 issues as possible, and I worry about having hearings  
24 piecemeal. Lawniczak not being here, Nicolaysen on the phone,  
02:21PM 25 it doesn't -- my Spidey senses tell me this is probably not the

1 right thing to do.

2 So -- but if you want to say something right now,  
3 feel free. If not, you can state whatever objections you want  
4 to lodge on the record.

02:21PM 5 MR. NISHI: What date was the Court thinking?

6 THE COURT: Thank you for reminding me. I was going  
7 to pick whatever date is convenient to you all, quite frankly.  
8 We can do it -- doesn't have to be on a Friday. We can pick a  
9 day during the week.

02:21PM 10 MR. NISHI: Didn't the Court set the 15th for --

11 MS. MYERS: I think the 17th, Thursday, 9:00 a.m.  
12 If that works for you all.

13 MR. CASTILLO: It works for me. And I was going to  
14 say, on behalf of Ms. Harrell -- I jumped the gun and notified  
02:22PM 15 the mother. She's not here. She's been here for every court  
16 proceeding; so I would be in favor of a continuance.

17 MR. NISHI: The 17th is --

18 THE COURT: Ms. Kupersmith, is there anything you  
19 want to say?

02:22PM 20 MS. KUPERSMITH: No, Your Honor. To the extent the  
21 Court is going to address the victims, they're not in the room  
22 right now, but we would ask for a chance to get them.

23 THE COURT: Unless you don't want me to. But I  
24 think it's only appropriate that they can blame me and not you  
02:22PM 25 all.

1 MS. MYERS: It's been a messy day between the fires  
2 and the transport and confusion. We understand.

3 THE COURT: Total aside, I have a jury that I'm  
4 supposed to do phase 2 of a civil rights trial on top of it  
02:22PM 5 all.

6 MR. NISHI: Do we have a time?

7 THE COURT: Who's the change of plea in front of?

8 MR. NISHI: Phillips.

9 THE COURT: So we can do it at 10:00.

02:22PM 10 MR. NISHI: Yeah.

11 THE COURT: Does that work for the Government? And  
12 you're traveling from D.C.?

13 MS. KUPERSMITH: I am, Your Honor.

14 THE COURT: You're racking up frequent flier miles.  
02:23PM 15 So, again, my apologies.

16 Okay. So do we want to bring out the defendants in  
17 order to continue it? Or I think we probably should -- are  
18 they here?

19 U.S. MARSHAL: Yes. Two.

02:23PM 20 THE COURT: Let's bring out the two that are here,  
21 and I'll state everything on the record. And in that time  
22 period you can get the victims.

23 **(Sidebar concluded.)**

24 THE COURTROOM DEPUTY: Recalling Criminal  
02:26PM 25 Case 17-404, Arlan Wesley Harrell, John Richard Brinson, and

1 Keith Allen Lawniczak.

2 **(Brief interruption.)**

3 THE COURT: All right. Let's -- we're going to  
4 proceed, and I'll have my courtroom deputy communicate with  
02:26PM 5 Mr. Nicolaysen. So let's just get everything out in the open  
6 here. So it's been -- Mother Nature and other circumstances  
7 have really impacted today's proceedings.

8 Mr. Harrell -- Mr. Harrell, you're here with  
9 Mr. Castillo.

02:27PM 10 Mr. Brinson, you're here, but your lawyer is not  
11 here, okay? Because of the fires that are going on, he's  
12 basically unable to be here.

13 And Mr. Lawniczak was not able to be here because of  
14 the fires and the transport. And so -- and now we cannot get  
02:27PM 15 ahold of Mr. Harrell's lawyer because his cell phone -- I  
16 assume that's being impacted by his location and the fires  
17 there.

18 I'm going to be candid with everyone here, and I  
19 know there are a lot of people here for this hearing. I do not  
02:27PM 20 feel comfortable proceeding with this hearing with one  
21 defendant not here; another defendant here, his lawyer not  
22 being here. To be fair to the entire process, I think all  
23 defendants and their counsel need to be here.

24 I recognize there are family members and other --  
02:27PM 25 family members, victims that have traveled, taken the day off.



1 My profuse apologies. These are the circumstances that we're  
2 dealing with.

3 And so I'm proposing continuing this matter until  
4 next -- I believe it's Thursday, the 17th, at 10:00 a.m., with  
02:28PM 5 the hopes that Mother Nature will not get in the way, and we  
6 will have everyone here and we can have a discussion and  
7 litigate these important motions before we proceed to trial.

8 Again, to those that have been here today, my  
9 sincere apologies. This is not something that -- I don't think  
02:28PM 10 anyone could have anticipated. But, again, to be respectful of  
11 the entire process and all the parties involved, I don't feel  
12 comfortable proceeding without the lawyers here and, certainly,  
13 the defendant here where he has a motion that's pending.

14 So if either side wishes to make any objections or  
02:28PM 15 statements on the record, they may do so now. If not, that's  
16 fine.

17 I'll start with the Government. Anything you wish  
18 to add?

19 MS. MYERS: No, Your Honor.

02:29PM 20 THE COURT: Anything from Mr. Castillo?

21 MR. CASTILLO: No, Your Honor.

22 THE COURT: Mr. Nishi?

23 MR. NISHI: No, Your Honor.

24 THE COURT: All right. So then I will see you all

02:29PM 25 back on October 17th, 10:00 a.m. I will make sure my calendar

1 is clear so that we can devote the time and attention that's  
2 needed for this hearing. All right. Thank you.

3 **(Proceedings concluded at 2:29 p.m.)**

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*CERTIFICATE OF OFFICIAL REPORTER*

COUNTY OF LOS ANGELES     )  
   )  
STATE OF CALIFORNIA        )

I, DEBBIE HINO-SPAAN, FEDERAL OFFICIAL REALTIME  
COURT REPORTER, in and for the United States District Court for  
the Central District of California, do hereby certify that  
pursuant to Section 753, Title 28, United States Code that the  
foregoing is a true and correct transcript of the  
stenographically reported proceedings held in the  
above-entitled matter and that the transcript page format is in  
conformance with the regulations of the Judicial Conference of  
the United States.

*Date: April 23, 2022*

          /S/ DEBBIE HINO-SPAAN          

*Debbie Hino-Spaan, CSR No. 7953  
Federal Official Court Reporter*